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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR 12 1996

In the Matter of )

Federal-State Joint Board )  
on Universal Service )

CC Docket No. 96-45

JOINT INITIAL REGULATORY FLEXIBILITY ANALYSIS COMMENTS OF  
NATIONAL SCHOOL BOARDS ASSOCIATION,  
AMERICAN LIBRARY ASSOCIATION, INCLUDING THE AMERICAN ASSOCIATION  
OF SCHOOL LIBRARIANS, A DIVISION OF ALA,  
NATIONAL EDUCATION ASSOCIATION, CONSORTIUM FOR SCHOOL NETWORKING,  
COUNCIL OF CHIEF STATE SCHOOL OFFICERS,  
EDUCATION LEGISLATIVE SERVICES, INC.,  
NATIONAL ASSOCIATION OF INDEPENDENT SCHOOLS,  
NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS,  
AMERICAN FEDERATION OF TEACHERS, AFL-CIO, ASSOCIATION FOR THE  
ADVANCEMENT OF COMPUTING IN EDUCATION, NATIONAL ASSOCIATION OF  
ELEMENTARY SCHOOL PRINCIPALS, AMERICAN ASSOCIATION OF SCHOOL  
ADMINISTRATORS, AMERICAN PSYCHOLOGICAL ASSOCIATION,  
ASSOCIATION FOR SUPERVISION AND CURRICULUM DEVELOPMENT,  
COUNCIL FOR AMERICAN PRIVATE EDUCATION,  
COUNCIL FOR EDUCATIONAL DEVELOPMENT AND RESEARCH,  
EDUCATIONAL TESTING SERVICE,  
GLOBAL VILLAGE SCHOOLS INSTITUTE,  
NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION,  
NATIONAL PARENTS AND TEACHERS ASSOCIATION,  
NATIONAL RURAL EDUCATION ASSOCIATION,  
TECHNOLOGY AND INNOVATIONS IN EDUCATION,  
TRIANGLE COALITION FOR SCIENCE AND TECHNOLOGY EDUCATION,  
AND UNITED STATES DISTANCE LEARNING ASSOCIATION

The joint commenters, representing the interests of public and private schools and libraries, hereby file the following comments in response to the Initial Regulatory Flexibility Analysis ("IRFA") contained in the Notice of Proposed Rulemaking and Order

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Establishing Joint Board ("NPRM") in the above-captioned proceeding, released March 8, 1996.<sup>1</sup>

This response is filed pursuant to the Regulatory Flexibility Act, P.L. 95-354 (1981), as amended by the Debt Limit act, P.L. 104-121, Title II of which is known as the Small Business Regulatory Enforcement Fairness Act of 1996, which was signed by the President on March 29th. Subtitle D of Title II imposes specific requirements on the Commission with respect to its regulatory flexibility analyses.

Paragraph 139 of the NPRM refers only to "small telecommunications service providers" in its description of the small entities that might be affected by the proposals discussed in the NPRM. In reality, however, the proposals in the NPRM also would have a significant effect on a substantial number of small government entities, as well. Among those small government entities are thousands of school districts and library districts. Other small entities affected would be private schools and libraries. Therefore, the NPRM completely ignores the significant economic effect the proposed rules will have on thousands of small entities all across the country.

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<sup>1</sup> On April 10, 1996, the joint commenters filed comments regarding the matters addressed in the NPRM.

**I. THE PROPOSALS WILL AFFECT A  
SUBSTANTIAL NUMBER OF SMALL ENTITIES.**

The Regulatory Flexibility Act defines small entities to include small governmental jurisdictions. The Act defines small governmental jurisdictions as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."<sup>2</sup> The NPRM proposals will affect over 38,000 such small governmental entities.

The Bureau of the Census compiles statistics on the number and size of sub-state governmental jurisdictions. According to the Bureau of the Census, there are 3,043 counties and 35,935 sub-county general purpose governments (municipalities, towns, and townships) in the United States.<sup>3</sup> Of these, 2,250 counties and 35,320 cities, towns and townships have populations under 50,000.<sup>4</sup> Thus, of the 38,363 local general-purpose governments in the United States (counties, cities, towns and townships), 37,570, or almost 98 percent, are small governmental jurisdictions subject to the Regulatory Flexibility Act.

A very significant number of the small governmental jurisdictions affected by the NPRM proposals are very small and stand to be particularly burdened by the proposed rules. For example, 18,770 of the nation's 35,935 cities, towns, and

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<sup>2</sup> 5 U.S.C. § 601(5).

<sup>3</sup> See U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, 1992 Census of Governments Vol. 1 Number 1 (based on population counts as of April 1, 1990).

<sup>4</sup> Id.

townships, or 52 per cent, have populations of less than 1,000 persons.

We do not have information regarding the number of school districts and library districts that serve areas with populations of less than 50,000 residents. Nevertheless, every city and county in the country has at least one school and district and at least one library system. In many cases, such districts are actually smaller than the local government jurisdiction. Consequently, there is little doubt that thousands of small government entities will be affected; indeed, a clear majority of the affected governmental entities are small entities.

In addition, the Small Business Administration has defined small entities in SIC Codes 8211 (Elementary and Secondary Schools) and 8231 (Libraries) as those with under \$5,000,000 in annual revenues. 13 C.F.R. § 121.601. We do not have figures on the number of such entities, but we believe that most private schools and libraries fall under that limit.

Based on the foregoing information, we believe it is inconceivable that the Commission's proposed rules will not have a significant effect on a substantial number of small governmental jurisdictions and private schools and libraries.

## **II. THE JOINT BOARDS' RECOMMENDATIONS MIGHT IMPOSE SIGNIFICANT BURDENS ON SMALL GOVERNMENTAL JURISDICTIONS AND OTHER SMALL ENTITIES.**

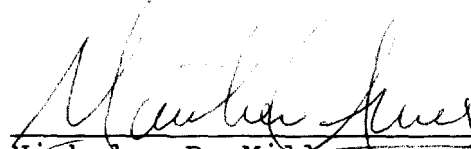
Our comments on the merits of the NPRM's proposals discuss some of the effects those proposals would have on schools and libraries. Indeed, the principal purpose of the NPRM is to adopt rules that will clearly affect the budgets of schools and libraries and their ability to perform their missions. Such matters as the nature of a bona fide request for service and the applicable procedures may result in the imposition of significant paperwork and administrative burdens on small government entities. Any restrictions on the resale or transfer of telecommunications services and network capacity may also impose significant fiscal burdens on schools and libraries. Finally, the rules the Commission adopts to enhance delivery of advanced services to schools and libraries may also impose such burdens.

## **III. CONCLUSION**

In preparing its final regulatory flexibility analyses in this proceeding, the Commission should amend its initial findings to reflect the information provided above. We would also urge the Joint Board in its recommendations to the Commission to consider

this information and recommend to the Commission rules that do not impose unnecessary economic or procedural burdens on small governmental jurisdictions.

Respectfully submitted,



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~~William Malone~~

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April 12, 1996

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Certificate of Service

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